

States rise up against Washington

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By [Lydia Wheeler](#) - 02/10/15 06:00 AM EST

State legislators around the country have introduced more than 200 bills aiming to nullify regulations and laws coming out of Washington, D.C., as they look to rein in the federal government.

The legislative onslaught, which includes bills targeting federal restrictions on firearms, experimental treatments and hemp, reflects growing discord between the states and Washington, state officials say.

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“You have a choice,” said Kentucky state Rep. Diane St. Onge (R). “To sit back and not do anything or say anything and let overregulation continue — or you have the alternative choice to speak up about it and say, ‘We know what you are doing or intend to do and we do not think that it is constitutional and we as a state are not going to stand for it.’ ”

Last month, St. Onge introduced H.B. 13 to nullify federal gun control laws within Kentucky state lines. Similar legislation has been introduced in seven other states.

“This law is saying the sheriff and those under him do not have to follow federal regulations,” she said.

Friction between the states and the federal government dates back to the nation’s earliest days. But there has been an explosion of bills in the last year, according to the Los Angeles-based Tenth Amendment Center, which advocates for the state use of nullification to tamp down on overzealous regulation.

“People are becoming more and more concerned about the overreach of the federal government,” said center spokesman Mike Maharrey. “They feel the federal government is trying to do too much, it’s too big and it’s getting more and more in debt.”

The 10th Amendment of the Bill of Rights reserves to the states powers not granted to the federal government by the Constitution. States have long used it as a tool to protect themselves against regulations.

Though federal law trumps state law, Maharrey said states are learning to exercise their own power by pushing back.

Without the resources to enforce its laws, the federal government is forced to rely on state action. When states refuse, federal law becomes virtually unenforceable, he said.

“States were always intended to be a check on federal power,” Maharrey said.

The National Conference of State Legislatures, which monitors action in the country’s statehouses, could not confirm the center’s 200-plus bill count, though a spokesman said there is a vocal movement behind the notion that some issues are best left to the states.

“It is often said states are the laboratories of democracy and the Tenth Amendment is something we at NCSL advocate for on behalf of states every day,” spokesman Mick Bullock said in a statement.

West Virginia and 19 other states, for instance, have introduced legislation to allow terminally ill patients

to have access to investigational products that have not been approved by the Food and Drug Administration. Included on the list are Oregon, California, Utah, Texas, Virginia, New Jersey, Rhode Island, New Hampshire, Maine, Indiana and Tennessee.

In Florida, state Rep. Michelle Rehwinkel Vasilinda (D) has introduced a bill that would legalize and regulate the production of hemp in the Sunshine State; a similar effort appears stalled at the federal effort.

Rehwinkel Vasilinda said if Congress won't act, she will.

"All politics is local and we try to solve problems at the local level," she said. "We have the authority to solve our own problems at the state and local levels — that's what is great about the United States."

Republican members of Congress say the spike in state nullification bills is a natural response to the current administration.

"I think it's due to the frustration with an out of control president who seems to be expanding federal power through executive action," said Sen. Lindsey Graham (R-S.C.). "Obama's not bringing us together he's dividing us further. This is an example of how we're being divided."

Though there are constitutional limits, Rep. Peter DeFazio (D-Ore.) said, states have the right to act when Congress won't.

"They have a lot of rights to move ahead in a lot of discrete areas when they are confronted with paralysis here," he said. "We set a floor on a lot of things, they can always exceed it."

In Virginia, conservatives are pushing for states to invoke Article 5 of the Constitution and hold a "convention of states" to restrict the power and jurisdiction of the federal government.

The group Citizens for Self-Government is leading the charge, and three states — Alaska, Georgia and Florida — have already passed resolutions calling for the convention.

Another 26 states are considering legislation this year, according to the group's president, Mark Meckler. It would take 34 states to call a convention.

"The citizens of this country believe Washington, D.C. has exceeded its boundaries," he said. "Article 5 is the only method available to us to push back."

At the convention, Meckler said the states would work to pass amendments that impose fiscal restraints, regulatory restrictions and term limits on federal officials, including members of the Supreme Court.

"We'll have [Article 5] applications pending in 41 states within the next few weeks," he said. "The goal is to hold a convention in 2016."

On Monday, former Sen. Tom Coburn (R-Okla.) announced he is joining the Convention of States Project as a senior adviser.

"Our Founders anticipated the federal government might get out of control at some point, and they gave us a Constitutional mechanism to rein it in," he said in a statement. "Many in Washington have unfortunately forgotten they work for the American people, and the people have begun to mobilize in this effective effort from coast to coast."